

Die Leiden des steuerlichen Wertes



Introduction to German Tax
Translation

Introduction

- Basis for taxation in Germany
- Major legislative acts
- Overview to major tax types
- Recent changes to tax law
- Resources



Basis of Taxation

- *Grundgesetz* (Basic Law)
- *Abgabenordnung, “AO”* (General Tax Code)
- *Finanzgerichtsordnung* (Tax Court Procedural Code)
Finanzverwaltungsgesetz
(Financial/Fiscal Administration Act)



Bewertungsgesetz (Valuation Act)

- Establishes uniform rules on tax valuation
- Applicable to all federal taxes and levies
- Defines several common terms, e.g.
 - *gemeiner Wert*
 - *Teilwert*
 - *Steuerbilanzwert*
 - *Einheitswert*



Major Tax Types

- Direct versus indirect
- Purpose
 - Revenue
 - Repricing (“social” taxes to affect demand)
 - Redistribution
- Taxing (receiving) authority



Major Legislation

- *Einkommensteuergesetz* (Personal Income Tax Act)
- *Körperschaftsteuergesetz* (Corporate Income Tax Act)
- *Umsatzsteuergesetz* (Value Added Tax (VAT) Act)
- *Gewerbesteuergesetz* (Municipal Trade Tax Act)
- *Jahressteuergesetz* (Annual Tax Act)
- *Erbschaftsteuergesetz* (Inheritance Tax Act)
- *Grunderwerbsteuergesetz* (Real Property Acquisition Tax Act)
- *Grundsteuergesetz* (Real Property Tax Act)
- *Umwandlungssteuergesetz* (Reorganization Tax Act)



Tax Revenues in Germany

Steuerart	Tax	Type	2007 revenues in € bn.	Percentage 2007
Steueraufkommen insgesamt in Deutschland	Tax revenue Total in Germany		493.818	100.00%
Gemeinschaftliche Steuern	Joint taxes		381.309	77.22%
Lohnsteuer und andere Einkommensteuern	Payroll withholding and other personal income taxes	Direct	170.591	34.55%
Umsatzsteuer	VAT	Indirect	169.636	34.35%
Körperschaftsteuer	Corporate income tax	Direct	22.929	4.64%
Zinsabschlagsteuer	Interest income withholding tax	Indirect	11.178	2.26%
Gewerbesteuerumlage	Municipal trade tax allocations		6.975	1.41%
Bundessteuern	Federal taxes		85.69	17.35%
Energiesteuer	Energy tax	Indirect	38.955	7.89%
Tabaksteuer	Tobacco tax	Indirect	14.254	2.89%
Solidaritätszuschlag	Solidarity surcharge	Direct	12.349	2.50%
Versicherungsteuer	Insurance tax	Indirect	10.331	2.09%
Stromsteuer	Electricity tax	Indirect	6.355	1.29%
Branntweinsteuer	Distilled spirits tax	Indirect	1.959	0.40%
Kaffeesteuer	Coffee tax	Indirect	1.086	0.22%



Tax Revenues in Germany

Steuerart	Tax	Type	2007 revenues in € bn.	Percentage 2007
Ländersteuern	State taxes		22.836	4.62%
Kraftfahrzeugsteuer	Vehicle tax	Direct	8.898	1.80%
Grunderwerbsteuer	Real estate transfer tax	Direct	6.952	1.41%
Erbschaftsteuer	Inheritance tax	Direct	4.203	0.85%
Rennwett- und Lotteriesteuer	Betting and gaming tax	Indirect	1.702	0.34%
Gemeindesteuern	Municipal taxes			
Gewerbesteuer	Municipal trade tax	Indirect	40.1	8.12%
Grundsteuer	Property tax	Direct	10.7	2.17%
andere (mit geringfügigen Steueraufkommen)	Other (with insignificant tax revenue)			
Sonstige; u. a.	Other; including	Schaumweinsteuer, Biersteuer, Alkopopsteuer, Feuerschutzsteuer, Hundesteuer, Jagdsteuer, Fischereisteuer, Vergnügungsteuer, Getränkesteuer, Schankerlaubnissteuer, Zweitwohnsitzsteuer	Sparkling wine tax, beer tax, alcopop tax, fire insurance tax, dog tax, hunting tax, fishing tax, entertainment tax, beverages tax, pub license tax, second residence tax	



Specific Taxes

- *Einkommensteuer* (Personal Income Tax)
- *Körperschaftsteuer* (Corporate Income Tax)
- *Umsatzsteuer* (Value Added Tax (VAT))
- *Gewerbesteuer* (Municipal Trade Tax)
- *Erbschaft- und Schenkungsteuer* (Inheritance and Gift Tax)



Einkommensteuer

1. Einkünfte aus Land- und Forstwirtschaft (§§ 13–14a EStG)
2. Einkünfte aus Gewerbebetrieb (§§ 15–17 EStG)
3. Einkünfte aus selbständiger Arbeit (§ 18 EStG)
4. Einkünfte aus nichtselbständiger Arbeit (§§ 19–19a EStG)
5. Einkünfte aus Kapitalvermögen (§ 20 EStG)
6. Einkünfte aus Vermietung und Verpachtung (§ 21 EStG)
7. Sonstige Einkünfte (§§ 22–23 EStG)



Einkommensteuer (2)

- Fairly “similar” to the procedure in the US
- *Lohnsteuer* (wage/payroll tax)
- *Kapitalertragsteuer (Zinsabschlag)* (“interest” withholding tax)
- *Steuerbemessungsgrundlage* (tax assessment basis)
- *Steuererklärung* (tax return)
- *Steuerbescheid* (tax assessment notice)



Einkommensteuer (3)

Progressive tax rate	
Single (double for married)	
Taxable income up to €7834	Tax-exempt
€7,835 to €52,151	14%
€52,152-€249,999	42%
€250,000 and up	45%
Interest and dividends > €801	25%



Körperschaftsteuer

- Levied on legal persons (corporations, associations, co-ops, etc.) that are not individuals, partnerships, or specifically tax-exempt (charities, churches, etc.)
- Distributions to individuals are included in shareholder's assessment basis and subject to 25% *Abgeltungssteuer*
- Distributions to other corporations are 95% tax-exempt (5% non-deductible business expense for the receiving corporation)
- steuerliche Organschaften



Key terms for corporate tax

- *Handelsbilanz* (financial accounts) (pursuant to HGB)
- *Steuerbilanz* (tax accounts or tax base, e.g. for assets and liabilities). (NOT a "tax balance sheet")
- *handelrechtliches Ergebnis* (accounting profit/income)
- *steuerrechtliches Ergebnis* (taxable profit/income)
- *Maßgeblichkeit(sprinzip)* (financial accounting determines tax accounting (sec. 5(1)(1) EstG)
- *umgekehrte Maßgeblichkeit* (tax dictates accounting treatment) Repealed in the 2009 Tax Act



steuerliche Organschaften

- Separate companies treated as a “fiscal unit/consolidated tax group” (*Organschaft*) for tax purposes, aka consolidated tax group relationship (*Organschaftsverhältnis(se)*)
- Requires a profit and loss transfer agreement between a legally independent company the controlled company/consolidated tax group subsidiary (*Organgesellschaft*) and the controlling company/consolidated tax group parent (*Organträger*)
- The *Organträger* must also hold the majority of voting rights in the *Organgesellschaft*
- *körperschaft-, gewerbe-, umsatzsteuerliche Zwecke* (e.g. *Somit bestand im gesamten Prüfungszeitraum (Pz) ein körperschaftssteuerliches Organschaftsverhältnis zur (AM) als Organträgerin, das auch die Gewerbesteuer und Umsatzsteuer einschliesst – A consolidated tax group relationship for corporate income tax purposes ...*)



Umsatzsteuer

- Value-added (value added) tax (“old” *Mehrwertsteuer*)
- *Vorsteuer* (input tax, input tax credit)
- *Einführumsatzsteuer* (import VAT)
- *Betriebsstätte* (permanent establishment)
- *USt-Voranmeldung* (VAT return)
- *ermäßigter Steuersatz* (reduced rate)



Gewerbesteuer

- “Municipal” trade tax (revenues to the *Gemeinde*)
- Levied on all *Gewerbe*, i.e. not freelancers or partnerships



Solidaritatzuschlag

- Solidarity surcharge (unification tax)
- Tax on a tax
- 5.5% of the income or corporation tax assessment

Example: If normal tax rate is 15%, your effective tax rate is 15.825% ($0.15 + (0.15 * 0.055)$), NOT 20.5%



Soli example

- Taxable income = € 10,000
- Basic tax rate = 15%
- € 10,000 x 15% = € 1,500
- Soli is 5.5% of € 1,500 = € 82.50
- = tax liability of € 1,500 + 82.50 = 1582.50
- = 15.825% of 10,000



Key terms in recent changes

- 2008 German Business Tax Reform Act (*Unternehmensteuerreformgesetz 2008*)
 - Reduces tax burden to ca. 30%, corporate tax rate reduced from 25% to 15%, trade tax base reduced to 3.5. But broadened the tax base (*Gegenfinanzierung*)
 - Repealed thin capitalization rule and introduces “earnings stripping” rules (*Zinsschranke* / interest deduction ceiling)
 - Flat 25% tax on income from capital and capital gains. *Abgeltungssteuer* (final withholding tax) satisfies the tax liability
 - *geringwertige Wirtschaftsgüter* (GWG) – minor-value assets < €150 expensed immediately, >€150 but < 1,000 must be “pooled” into a single accounting item and depreciated over 5 years.
- 2008 Annual Tax Act (*Jahresteuergesetz 2008*)
 - Recapture taxation of carryover “EK 02” (German-source tax-exempt income under the imputation system, last assessed in 2006)
- BilMoG
 - Eliminates umgekehrte Maßgeblichkeit (KPMG - “reverse linkage”)



Resources

- Bundeszentralamt für Steuern
www.steuerliches-info-center.de
- Bundesministerium der Finanzen
www.bundesfinanzministerium.de
- Haufe
www.bundesfinanzministerium.de
- German Tax Monthly, VAT Newsletter
www.kpmg.de
- Investment in Germany
www.kpmg.de



Any Questions?



Thank you!